



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35942]

Tunnel Hill Partners, LP—Acquisition of Control Exemption—Hainesport Industrial Railroad, LLC

Tunnel Hill Partners, LP (Tunnel), a noncarrier, and two Class III carriers (Hainesport Industrial Railroad, LLC (HIRR) and New Amsterdam & Seneca Railroad Company (NAS) (collectively, Applicants)) have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) for Tunnel, which currently owns NAS, to acquire control of HIRR.

According to Applicants, Tunnel is an integrated waste management firm. It currently owns NAS, a carrier with authority to operate a rail line in Fostoria, Ohio.¹ Darryl Caplan and Ronald W. Bridges currently own HIRR, a carrier that holds authority to operate approximately one mile of track in Hainesport Industrial Park in Burlington County, N.J.² Tunnel proposes to acquire from these individuals their ownership interest in HIRR to serve a waste transfer facility located on that line. Tunnel notes that it may

¹ See New Amsterdam & Seneca R.R.—Lease & Operation Exemption—Line in Fostoria, Ohio, FD 34811 (STB served Jan. 20, 2006).

² See Hainesport Indus. R.R.—Acquis. & Operation Exemption—Hainesport Indus. Park R.R. Ass'n, FD 34695 (STB served May 18, 2005).

also use NAS to serve a waste transfer facility it owns on that line. Tunnel states that there are no plans to connect the two railroads.

The transaction is expected to be consummated on or after July 30, 2015, the effective date of the exemption.

Applicants state that: (i) the carrier to be controlled pursuant to this notice of exemption (HIRR) does not connect with Tunnel's existing carrier (NAS); (ii) the subject acquisition of control proceeding is not part of a series of anticipated transactions that would connect the railroads with each other; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than July 23, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings referring to Docket No. FD 35942, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, Strasburger & Price, LLP, 1025 Connecticut Ave., N.W., Suite 717, Washington, DC 20036.

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Decided: July 13, 2015.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig

Clearance Clerk

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